

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

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| In re: Wholesale Grocery Products<br>Antitrust Litigation<br><br>This Document Relates to:<br><i>All Actions</i> | Civil No. 09–CV-00983 (ADM/AJB)<br>Civil No. 09–CV-2940 (ADM/AJB)<br>Civil No. 09–CV-2932 (ADM/AJB)<br>Civil No. 09–CV-3191 (ADM/AJB)<br><br>MDL Docket No. 2090 |
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**Defendants’ Notice of Intent to Claim an Award of Attorney’s Fees**

Pursuant to D. Minn. L.R. 54.3(b)(2), Defendants SuperValu Inc. and C&S Wholesale Grocers, Inc. submit this Notice of Intent to Claim an Award of Attorney’s Fees from Plaintiffs Blue Goose Super Market, King Cole Foods, Millennium Operations, Inc., JFM Inc., and MFJ Inc. (the “Arbitration Plaintiffs”), whose claims were dismissed in favor of arbitration under the Federal Arbitration Act in a final judgment dated August 31, 2011.<sup>1</sup> Defendants intend to claim an award of their reasonable attorney’s fees from the Arbitration Plaintiffs under the terms of their Mediation/Arbitration Agreements which provide, in relevant part, that “[i]f either party fails to proceed with arbitration as provided in this Agreement . . . the other party shall be entitled to be awarded costs, including reasonable attorney’s fees, paid or incurred in successfully compelling such arbitration.”

In accordance with Local Rule 54.3(b)(2), the table set forth below identifies the names of all counsel from Robins, Kaplan, Miller & Ciresi L.L.P., Baker Botts

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<sup>1</sup> Local Rule 54.3(b)(2) provides that a party seeking an award of attorney’s fees may file a notice of intent to seek fees and a proposed briefing schedule “[w]ithin 14 days after the entry of judgment in the case.”

LLP, and Fredrikson & Byron P.A., who rendered the legal services upon which the claim is based.

| <b><i>Robins, Kaplan, Miller &amp; Ciresi L.L.P.</i></b> | <b><i>Baker Botts LLP</i></b>             |
|--|---|
| Martin R. Lueck  | Christopher J. MacAvoy                    |
| K. Craig Wildfang  | Charles A. Loughlin                       |
| Stephen P. Safranski                                     | David S. Shotlander                       |
| Damien A. Riehl  | Arthur Farrell                            |
|  |   |
|  | <b><i>Fredrikson &amp; Byron P.A.</i></b> |
|  | Todd Wind                                 |
|  | Nicole M. Moen                            |
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The Arbitration Plaintiffs have indicated that they intend to appeal the Court's arbitration ruling. If the ruling is affirmed, the recoverable fees could include those reasonably expended by Defendants in defending the Court's ruling on appeal. In the unique circumstances of this case, Defendants propose that their attorney's fees motion should be submitted and briefed after the disposition of the appeal. See D. Minn. L.R. 54.3, 1991 Advisory Committee's Notes (noting that in certain circumstances, "delaying the fee consideration until after an appeal is determined may promote justice and efficiency"). Accordingly, Defendants propose the following schedule:

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| Motion for attorney's fees due                     | <b>30 days</b> after a ruling by the Court of Appeals determining the appeal or, if no appeal is taken, after the expiration of Plaintiffs' time to appeal |
| Response to motion for attorney's fees due         | <b>14 days</b> after the filing of the motion for attorney's fees  |
| Reply in support of motion for attorney's fees due | <b>7 days</b> after the filing of the response to the motion for attorney's fees   |

If, however, the Court determines that it is appropriate to consider the attorney's fees motion at this time, Defendants would propose to file their fees motion within 30 days of the Court's Order issuing a briefing schedule, with Plaintiffs' response due 14 days after the filing of the motion, and Defendants' reply due 7 days after the filing of the response.

September 7, 2011

Respectfully submitted,

**Fredrikson & Byron, P.A.**

**Robins, Kaplan, Miller & Ciresi L.L.P.**

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